THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.3263 OF 2007

DATED 22nd MARCH, 2007

BETWEEN

Chejerla Venkata Ramana Reddy

… Petitioner

AND

Vanka Subba Reddy, Sarpanch, Appasamudram Gram Panchayat, Udayagiri Mandal, Nellore District and another.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.3263 OF 2007

ORDER:

Elections to the Office of Sarpanch of Appasamudram Gram Panchayat was held on 29.07.2006. The petitioner and first respondent were candidates. First respondent was declared elected with 540 votes. The petitioner secured 505 votes and 14 votes were allegedly declared invalid. The petitioner alleges that there were irregularities in the counting that 60 to 70 invalid votes were counted in favour of first respondent. He allegedly raised objections before the second respondent, in vain. Therefore, he filed an Election Petition being E.O.P.No.2 of 2006 on the file of Election Tribunal-cum-the Court of Junior Civil Judge, Atmakur, Nellore District. He also filed I.A.No.2 of 2006 under Section 151 of Code of Civil Procedure, 1908 (CPC) and Rule 7(ii)(a) of A.P.Panchayat Raj (Election Tribunals in respect of Gram Panchayats, Mandal Parishads and Zilla Parishads) Rules, 1995 (hereafter called, the Rules). He prayed for a direction to send for the ballot boxes for the purpose of re-counting of votes polled in his favour as well as the in favour of first respondent and also for discovery and inspection of valid votes polled in favour of first respondent during the elections for the post of Sarpanch. The Election Tribunal dismissed the same on 26.10.2006, assailing which, the present writ petition is filed.

The matter was initially listed on 22.02.2007. This Court ordered notice to the first respondent. After service of notice, first respondent is represented by the counsel.

Learned counsel for the petitioner submits that the petitioner gave sufficient reasons in support of I.A.No.2 of 2006 but the learned Election Tribunal dismissed the application without giving any reasons. The learned first respondent refutes the allegation.

The impugned order in I.A.No.2 of 2006, dated 26.10.2006, reads as under.

> Heard.
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> Perused the record. It seems that there is no whisper in the petition affidavit for what reason the documents are required at this stage. Hence, I feel that there are no merits in filing this application at this stage.
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> Hence, petition is dismissed.

By reading the above order, this Court is not able to countenance the submission of the learned counsel for the first respondent. As a quasi-judicial authority, the learned Election Tribunal is under obligation to record reasons either for accepting or rejecting an interlocutory application. No reasons are found and the case of the petitioner is not even discussed at least to a bear extent. Therefore, the impugned order is unsustainable.

Accordingly, the impugned order is set aside and I.A.No.2 of 2006 in E.O.P.No.2 of 2006 is remitted to the learned Election Tribunal-cum-Court of Junior Civil Judge, Atmakur, Nellore, with a direction to conduct *de novo* enquiry and pass appropriate orders in the said interlocutory application.

The writ petition is accordingly disposed of. No costs.

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(V.V.S.RAO,J)

22.03.2007.
pln